

Remarks

Further and favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

Thus, claim 39 has been amended to recite that:

- the chemical treatment agent is chosen from calcium chloride and eugenol, isoeugenol and the salts thereof, as recited in claim 51;
- the method comprises the steps of:
 - diluting in an aqueous dispersion a formulation of lecithins and/or derivatives in an aqueous solution or in a vegetable oil;
 - applying the resultant composition to the fruit or vegetable as recited in claim 44; and
 - the lecithin and/or derivatives are applied to the fruit or vegetable at a concentration of between 100 and 5000 ppm, as supported by the last portion of the second paragraph on page 11 of the specification.

Claims 44-46 have been cancelled in view of the amendments to claim 39.

Claim 47 has been amended to recite that:

- the treatment agents are selected from calcium chloride and eugenol, isoeugenol and the salts thereof, as recited in claims 39 and 51;
- the composition comprises 10% to 30% treatment agent, 10% to 40% of lecithins and/or derivatives and from 30% to 60% of vegetable oil, as recited in claim 54 (please note that the range 10% to 30% of the treatment agent is supported by the specification at page 11, 5th paragraph, 3rd line); and
- the oil base is a vegetable oil base.

As a result of these amendments, claims 49-53 and 55 have been cancelled.

Claim 65 has been amended to recite that:

- the method comprises the steps of

diluting, in an aqueous dispersion, a formulation of lecithins and/or derivatives in an aqueous solution or in a vegetable oil; and

applying the resultant composition to the fruit or vegetable, shown in claim 44;
and

- the lecithins and/or derivatives are applied at a concentration of between 100 and 5000 ppm.

Claim 67 has been amended to recite the specific treatment agents referred to above in the other amended claims.

New claims 72 and 73 have been added to the application.

Claim 72 corresponds to amended claim 39, except that it recites the steps of:

- formulating the lecithins and/or derivatives in an aqueous solution or in a vegetable oil,
and

- diluting the formulation in an aqueous dispersion.

New claim 73 corresponds to amended claim 65 but recites the steps of:

formulating the lecithins and/or derivatives in an aqueous solution or in a vegetable oil;

and

diluting the formulation in an aqueous dispersion.

Amended claim 39 differs from Garcia-Mina et al. in that the claimed method comprises the steps of:

- > diluting in an aqueous dispersion a formulation of lecithins and/or derivatives in an aqueous solution or in a vegetable oil; and
- > applying the resultant composition to the fruit or vegetable.

Garcia-Mina et al. are totally silent in respect to the formulation of the lecithin. The reference composition merely consists in:

- the first fundamental active ingredient such as eugenol,
- the secondary active ingredient consisting in the association of cuminaldehyde and/or geraniol, vanillin, borneol, menthol, anethol, etc.,
- the surface active such as lecithin and
- the oligosaccharide.

The reference composition comprises neither an oil base nor water, and is not formulated as a premix in water or oil prior to dilution and application as required by instant claim 39.

Further, Mulder does not disclose the step of formulating the lecithin and/or derivative in an aqueous solution or in a vegetable oil. This reference merely discloses the step of formulating the lecithin in an organic solvent, and not in water or vegetable oil.

Further, neither Garcia-Mina et al. nor Mulder discloses the lecithin concentration of between 100 and 5000 ppm in claim 39.

Claim 39 and its dependent claims are thus novel and unobvious over these documents. The method as recited in claim 39 allows the application of a specific concentration of lecithin in a suitable, stable premix formulation, which makes it possible to reduce the phytotoxicity of physical and chemical treatments caused to fruits and vegetables. Nothing in Garcia-Mina et al. nor in Mulder would have led the skilled person to achieve such a method with outstanding results as shown by the experimental data presented with the Rule 132 Declaration filed June 3, 2009.

Further, composition claim 47 is specifically directed to a composition comprising calcium chloride or eugenol or isoeugenol with lecithin and/or derivative dissolved in a vegetable oil base, comprising 10% to 30% of treatment agent, 10% to 40% of lecithin and 30% to 60% of vegetable oil. Neither Garcia-Mina et al. nor Mulder discloses or suggests such a composition. The method of treatment using the composition, as well as the process for preparing such a composition (claims 59 and 66), are thus also novel and unobvious.

Method claim 65 comprising the steps of applying a physical treatment by means of heat or cold, diluting lecithins formulated either in an aqueous solution or in a vegetable oil in an aqueous dispersion before the treatment at a concentration between 100 and 5000 ppm, is neither disclosed nor suggested in Garcia-Mina et al. or Mulder.

Method claim 67 specifically concerns a method for preserving lecithins comprising mixing calcium chloride or eugenol or isoeugenol with lecithin in an oil base. Neither Garcia-Mina et al. nor Mulder discloses or suggests such a method.

Applicant thus takes the position that the presently claimed invention is clearly patentable over all of the applied references.

Therefore, in view of the foregoing amendments and remarks, it is submitted that each of the grounds of rejection previously applied by the Examiner has been overcome, and that the application is in condition for allowance. Such allowance is solicited.

The Commissioner is authorized to charge any deficiency or to credit any overpayment associated with this communication to Deposit Account No. 23-0975, with the EXCEPTION of deficiencies in fees for multiple dependent claims in new applications.

Respectfully submitted,

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